



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

July 17, 2013

Overnight Mail

Ramiro Garcia, Jr.
Deputy Director
Office of Compliance and Enforcement (MC 172)
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753

Re: Notice of Violation: Cabot Corporation's Carbon Black Facility, Pampa, Texas

Dear Mr. Garcia:

The Cabot Corporation ("Cabot") owns and operates a carbon black facility ("Facility") in Pampa, Texas. The Facility presently consists of four carbon black units (unit 2, unit 3, unit 4, and unit 5). The United States Environmental Protection Agency ("EPA"), the Department of Justice ("DOJ"), the Louisiana Department of Environmental Quality ("LDEQ"), and Cabot have been engaged in global settlement negotiations designed to minimize the amount of nitrogen oxide ("NO_x"), sulfur dioxide ("SO₂"), and particulate matter ("PM") emissions from Cabot's Facility and other related facilities outside the State of Texas.

We hope to lodge a Consent Decree soon that will memorialize injunctive measures to be taken by Cabot. The scope of the injunctive relief and eventual emission reductions required by the draft Consent Decree is significant. If the Consent Decree is finalized by signature of all parties, lodged, and entered, Cabot will, among other things, install state-of-the-art pollution control equipment to control emissions of NO_x, SO₂, PM, and perform environmental mitigation projects in each of the communities where violations have occurred, including Pampa, Texas, and pay a civil penalty. The above mentioned items will be performed at all of their operating carbon black manufacturing facilities.

The purpose of this letter is to provide you with notice that, if we lodge the Consent Decree described above, the United States also will file a complaint that will allege that Cabot violated numerous provisions of the federal Clean Air Act ("CAA") and corresponding State

Implementation Plan (“SIP”) requirements.¹ Specifically, as relevant to the State of Texas and concerning the Cabot Facility we expect to allege (at times on information and belief) violations of the following provisions:

- a. The Prevention of Significant Deterioration (“PSD”) requirements found in 42 U.S.C. § 7475 and 40 C.F.R. §§ 52.21(a)(2)(iii) and 52.21(j)-52.21(r)(5);
- b. The requirements of Title V of the CAA found at 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a), and the regulations promulgated thereunder at 40 C.F.R. §§ 70.1(b), 70.5(a) and (b), 70.6(a) and (c), and 70.7(b);
- c. The portions of Title V permits that implement, adopt, or incorporate the provisions cited in Paragraph a;
- d. The federally enforceable SIP for Texas that adopts, incorporates, and/or implements the federal requirements set forth in Subparagraphs a and b above. *See* 30 Tex. Admin. Code § 116.160 (2001) (incorporating by reference 40 C.F.R. § 52.21, as amended 1996). *See also* 30 Tex. Admin. Code §§ 116.110(a) (2000) and 116.111(2)(C) (1999).

PSD Allegations. With respect to the PSD allegations, if this settlement goes forward, we expect to assert : (1) that between 2005 and 2006 Cabot commenced construction of major modification(s) (installed Thermal Oxidizer on Units 2 and 5; installed flares on Units 3 and 4; and installed improvements on the Main Unit Filter) at its Pampa Facility resulting in a significant net emissions increase of NO_x, as defined in the CAA and the Texas SIP, and that Cabot did not apply for, obtain, or operate pursuant to a PSD permit for the modification(s).

Title V and Title V Permit Allegations. If this settlement goes forward, we expect to assert that Cabot violated Title V permit requirements, including those set forth in the relevant provisions of the Texas SIP, based on the acts and omissions identified above. These claims are derivative of the substantive claims identified above, as Cabot failed to submit a complete application for a Title V operating permit for the Pampa Facility in violation of Section 503 of the CAA, 42 U.S.C. §§ 7661b, the implementing regulations at 40 C.F.R. § 70.5(a), (c), and the corollary provisions of Texas’ Title V program, and Cabot has operated and continues to operate the Pampa Facility without a valid Title V operating permit that either requires compliance with Best Available Control Technology (“BACT”) or contains a compliance plan for coming into compliance with BACT, in violation of Sections 502(a) and 504(a) of the CAA, 42 U.S.C. §§ 7661a(a), 7661c(a), 40 C.F.R. §§ 70.6(a), (c), and the corollary provisions of Texas’ Title V program.

Significantly, if a Consent Decree in this matter is entered, due to the global nature of the negotiations, it will resolve more than just the claims alleged in the Complaint; it will resolve all

¹ During negotiations, Cabot represented that it will acknowledge statutory notice of violations under the CAA.

of the following claims against Cabot² that arose prior to the date of lodging of the Consent Decree:

- a. Claims based on Part C of Subchapter I of the CAA, 42 U.S.C. §§ 7470-7492, and the implementing regulations at 40 C.F.R. § 52.21, or the equivalent Texas SIP approved regulation, arising from any construction or modification at the Cabot Facility carbon black manufacturing plants;
- b. Claims based on Sections 502(a), 503 and 504(a) of Title V of the CAA, 42 U.S.C. §§ 7661a(a), 7661b, and 7661c(a), and the implementing regulations at 40 C.F.R. Part 70, arising from the failure to obtain permits containing applicable requirements triggered by any construction or modification at the Cabot Facility carbon black manufacturing plants; and
- c. Any State or local law counterparts to the provisions above in subparagraphs a-c.

No action on your part is required. However, if you have specific questions please contact Jan Gerro, Senior Enforcement Counsel, EPA Region 6, (214) 665-2121.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

cc: Sam Blesi, U.S. DOJ
Kellie Ortega, U.S. EPA
Bart Cassidy, Attorney at Law, Counsel for Cabot
Michael de la Cruz, TCEQ

² Under the Consent Decree, the phrasing of the listed claim releases additionally expands to Cabot's facilities in another state.